

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 26 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ESTEBAN HERNANDEZ,

Plaintiff-Appellant,

v.

HOWELL, warden; et al.,

Defendants-Appellees.

No. 22-16922

D.C. No. 2:18-cv-01449-MMD-
CLB

District of Nevada,
Las Vegas

ORDER

Before: TALLMAN, N.R. SMITH, and COLLINS, Circuit Judges.

The motion to dismiss, or in the alternative, for summary affirmance of the district court's judgment (Docket Entry No. 12) is denied because the arguments raised in the opening brief are sufficiently substantial to warrant further consideration by a merits panel. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (stating standard).

The motion for an extension of time to file the reply brief (Docket Entry No. 13) is denied as unnecessary. *See* 9th Cir. R. 27-11.

The answering brief is due August 28, 2023. The optional reply brief is due within 21 days after service of the answering brief.

Because appellant is proceeding without counsel and did not file excerpts of record, appellees "must file Supplemental Excerpts of Record that contain all of the documents that are cited in the pro se opening brief or otherwise required by

Rule 30-1.4, as well as the documents that are cited in the answering brief.” *See* 9th Cir. R. 30-1.3.